

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DENNIS HOHOL,

ORDER

Petitioner,

20-cv-873-bbc

v.

STATE OF WISCONSIN,

Respondent.

Petitioner Dennis Hohol has filed a pro se petition for a writ of habeas corpus under 28 U.S.C. § 2254. He challenges the 2002 judgment of convictions entered by the Circuit Court for Waukesha County, Wisconsin, in Case Nos. 2000CF639 (three counts of second degree assault of a child) and 2001CF380 (one count child enticement–sexual contact). The petition is before the court for screening pursuant to Rule 4 of the Rules Governing Section 2254 Cases, which requires the court to examine the petition and supporting exhibits and dismiss the petition if it “plainly appears” that petitioner is not entitled to relief. 28 U.S.C. § 2243 (habeas court must award writ or order respondent to show cause why writ should not be granted, unless application makes it clear that petitioner is not entitled to relief). Because petitioner has filed a previous federal habeas petition challenging these convictions, his petition must be denied.

Petitioner filed a federal habeas corpus petition in this court on December 6, 2019, raising seven different challenges to his 2002 convictions. Case no. 19-cv-993-bbc, dkt. #1. In an order entered on May 1, 2020, I found that petitioner’s claims were barred by either the one-year statute of limitations under 28 U.S.C. § 2244(d)(1),

because the state courts' final ruling with respect to those claims occurred more than eight years ago, or the doctrine of procedural default, because he did not appeal the state circuit court's rulings. Case no. 19-cv-993, dkt. #7.

Under 28 U.S.C. § 2244(b)(3)(A), a petitioner may not file a second or successive application in the district court unless he first obtains an order from the appropriate court of appeals authorizing the district court to consider the application. Altman v. Benik, 337 F.3d 764, 766 (7th Cir. 2003) (prior petition denied as untimely or based on procedural default operates as "irremediable defect barring consideration of petitioner's substantive claims"). Petitioner has not obtained an order from the Court of Appeals for the Seventh Circuit authorizing him to file his successive petition. Accordingly, I must dismiss the petition in this case.

ORDER

IT IS ORDERED that petitioner Dennis Hohol's petition for a writ of habeas corpus is DISMISSED without prejudice for petitioner's failure to obtain the necessary preliminary authorization required under 28 U.S.C. § 2244(b)(3)(A).

Entered this 9th day of November, 2020.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge